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Peruvian Business Associations Hoping to Hack Away at Workers’ Rights

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A business-sector proposal urging the government of President Ollanta Humala to scale back labor rights as a way to tackle Peru’s economic crisis and create more formal employment opportunities has, as expected, generated stiff opposition among trade unions and labor-issue specialists.

The Asociación de Exportadores (ADEX) and the Cámara de Comercio de Lima (CCL), two leading business groups, insist the only way to spur investment is to cut "labor costs." As such, they propose reducing the Compensación por Tiempo de Servicio (CTS), a workers’ benefit, and allowing companies to distribute that money in employee paychecks rather than in separate funds. The groups also want to block workers from taking arbitrary dismissal cases to court; reduce the number of paid vacation days from 30 to seven; halve biannual salary bonuses for people who have spent less than five years in a given job; introduce a sectoral minimum wage; and allow companies greater flexibility regarding recruitment methods.

The Peruvian economy has slowed of late and is currently growing by less than 3%. Furthermore, approximately 70% of the country’s jobs are in the informal sector, meaning they are neither taxed nor regulated in any way. Estimates also suggest that 43% of Peruvian workers earn less than the Remuneración Mínima Vital (RMV), the minimum monthly salary, currently 750 soles (US$258).

The business-sector proposals are backed by newspapers such as Gestión that promote a free-market economic model. In a Sept. 2 editorial, Gestión said Peru’s labor laws are among "the most onerous in Latin America" and are largely responsible for the country’s lack of formal employment opportunities. "Bolder measures are needed to encourage private investment in the country. In particular, we’ve proposed that these measures focus on making Peru’s labor laws more flexible," the editorial explained.

"If companies knew they had some room to adjust their costs during difficult times, they wouldn’t be so hesitant about hiring people," Gestión went on to say. "Making labor costs more flexible would also allow companies to continue operating in difficult conditions instead of falling into bankruptcy. They could thus save the jobs of their employees."

Union opposition

Labor groups argue otherwise. Union leader Mario Huamán of the Confederación General de Trabajadores del Perú (CGTP) accuses ADEX and the CCL of trying to "scale back and cancel out workers’ rights" and says the only people who stand to benefit from the proposals are business owners. Huamán points to a 2005 law regarding micro and small enterprises (MSEs) as proof that these kinds of cost-cutting policies don’t work.

The MSE law cut annual labor costs by 29.3% and was thus expected to create more formal employment opportunities. Almost 10 years later, however, 88.8% of the labor force in micro and small companies is still informally employed, according to Ministerio de Trabajo figures. Between
2005 and 2013, labor informality in the sector only dropped 3.2% while, in the economy as a whole, the decrease was 12.5%.

MSEs employ approximately 60% of Peru’s occupied labor force. The vast majority (98.1%) of those companies, based on the number or workers employed, are considered micro. Only 1.7% qualify as small.

"In 2008, the MSE law, which was supposed to be only a temporary measure, became a permanent fixture and was extended to the point of applying to any company with fewer than 100 workers," former labor minister Javier Neves told the daily La República. "It’s logical, therefore, that the CGTP is concerned when business owners say that [their proposals] would just be temporary measures."

The proposals have also caught the attention of the director general of the International Labour Organization (ILO), Guy Ryder, who told reporters that reducing salaries and eroding labor conditions won’t make companies more productive or competitive. Ryder thinks the Peruvian government would do better to enact policies aimed at preparing young people for the job market. He also recommended that the government not impose the measures unilaterally but instead allow open debate on the issue. Ryder made his comments shortly before participating in a regional ILO summit in Lima Oct. 13-16.

**Alternative proposals**

Earlier in the month—on Oct. 7, the World Day for Decent Work—a group of lawyers, economists, and academics specialized in labor issues and employment-related public policy issued a statement saying that "the elimination of labor and social rights is not the formula needed to either reactivate the economy or make it more competitive."

The experts disagree with claims that Peru’s labor regime elevates the cost of laying workers off. Various temporary contract mechanisms are in place, they point out, that allow companies to part ways with employees without having to pay severance.

The labor specialists say the key to reactivating the economy and creating more formal work opportunities is to approve measures aimed at investing in better production methods, access to markets, technological innovation, training and worker specialization, and public education. They also urge tax reform, easier access to loans, simplified bureaucratic procedures, better production ties between MSEs and large companies, and product diversification. They say that a reasonable and periodic increase of the RMV would help, too, by driving internal demand and thus encouraging investment and jobs creation.

Between 2005 and 2013, the RMV was raised five times. During that span, the rate of labor informality in the private sector dropped 11.4 percentage points, from 68.8% to 57.4%, while the percentage of workers earning less than the monthly minimum dropped 12.1 percentage points, from 46.2% to 34.1%.

"At a time when there is a lot of talk in the region and elsewhere about the need for structural reforms and about how our economies need to be more productive and competitive, it’s important to understand that dialogue among governments, business owners, and workers is a tool for progress in these areas, not an obstacle," said Ryder.

Participants in the ILO summit, which took place just as the business-sector proposals are being hotly debated, concluded the event with a declaration calling for progress in creating quality jobs.
"To overcome existing obstacles to the creation of quality jobs and to make progress in this field, respect for fundamental rights at work, an enabling environment for sustainable enterprises, and effective social dialogue based on mutual trust between governments and representative and independent employers’ and workers’ organizations are essential," reads the Lima Declaration.

Labor groups are also rallying around the call for decent and worthy jobs as well. Huamán, the CGTP head, says that the World Bank and business leaders in other countries believe Peru should tackle the crisis and strengthen its national market by recognizing and expanding work benefits.

In recent months, Peru’s Consejo de Ministros has approved four packets of government-backed measures aimed at reactivating the economy. Two still need approval from Congress. The measures already approved include tax incentives, red-tape reduction, and a loosening of environmental laws (NotiSur, July 25, 2014). A new packet that includes the regressive labor reforms proposed by the business sector is likely in the works. If the measures are approved, Humala, as journalist Raúl Wiener opined, would go down in Peruvian history as the worst enemy of the workers.

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